

**CUSTODY AND/OR
PARENTING TIME
(Formerly known as “Visitation”)**

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**To Make an Emergency
Change to an Existing
Court Order**

**Filing the Court Papers
(Instruction Packet)**

SELF SERVICE CENTER

EMERGENCY CHANGE OF A COURT ORDER FOR CUSTODY AND/OR PARENTING TIME (Formerly known as “Visitation”)

PETITIONER OR RESPONDENT

ASKING THE COURT FOR THE EMERGENCY MODIFICATION (INSTRUCTIONS ONLY)

(Caution: you must also complete and file “*Petition to Modify Custody/Parenting Time*” to file for an emergency modification order)

How to assemble these documents

This packet contains general information and instructions about filing for emergency modification orders. Be sure the documents are in the following order:

Order	File Number	Title	No. Pp.
1	DRMCE1it	Table of forms/instructions in this packet	1
2	DRMCE10h	Help completing “Emergency Temporary Orders”	3

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INFORMATION ABOUT EMERGENCY PETITIONS AND ORDERS

You should **not** file an ***“Emergency Petition”*** for child custody and/or visitation, **or** for any other emergency court order, **unless** you believe at least one of the following is true:

1. Someone is about to cause serious and immediate bodily harm to another person, **or**
2. The health, safety, and welfare of a person is in serious and immediate danger.

If you file an ***“Emergency Petition,”*** you **must** state in the Petition what the emergency is, and be sure that everything you say to the judge is **true**. You should **not** file an ***“Emergency Petition”*** solely to get an earlier court hearing, or to harass the other party or the court, or to cause unnecessary delay of court proceedings.

If the judge finds that you filed the ***“Emergency Petition”*** without a very good legal reason, the judge may order sanctions against you. Sanctions may include contempt, payment of money to the court or other persons for costs resulting from the filing of the Petition, and other consequences.

Follow these steps to ask the court for an emergency change to a current court order:

STEP 1: **To file an *“Emergency Petition.”*** You must complete and file all the paperwork for the ***“Petition for Modification of Child Custody and/or Visitation.”*** Get all the forms you need before you begin. The reason why you must file this paperwork too is because an emergency order is only good for a short period of time. If the judge signs the ***“Emergency Order”*** you will also need him/her to sign a permanent order changing custody and visitation.

STEP 2: **Complete the *“Emergency Petition.”*** Emergency cases can be handled in one of two ways:

- A. **WITH NOTICE:** This means that the emergency is very important, but the party who wants the court order will still let the other party know about it in advance to tell the judge his/her side of the story. Notice can be to the other party or his/her attorney.
- B. **WITHOUT NOTICE:** This means that the emergency orders are done by the judge right away without letting the other party know about it ahead of time. This is a very serious matter. The judge will **not** grant the emergency orders without notice **unless** you have a very good reason and can **prove** that you tried very hard but could **not** give notice, **OR** that immediate and irreparable injury, loss, or damage will result if you give notice to the other party.

Decide if you are asking for the ***“Emergency Order”*** with or without advance notice to the other party. The court always prefers that you give advance notice, **unless** you have a very good reason not to, such as fear of death or bodily harm to yourself or someone else.

Be very specific as you write all the reasons why you believe this is an emergency. Give the judge as many facts as you can, because you are asking to be put ahead of everyone else who is waiting for the court's time, and you must have a very good reason to do this.

STEP 3: Complete the other court papers that go with the Emergency Petition.

- A. ORDER TO APPEAR.** Fill in the caption. This includes the name of the person filing the document, address, city, state, zip code, telephone number, ATLAS number (if applicable), attorney bar number if you are represented by an attorney, and whether you are representing yourself or are represented by an attorney. It also includes the Name of the Petitioner, the Name of the Respondent, and the Case Number. Leave the rest of the **"Order to Appear"** blank for the judge to fill out. This is the document the judge will complete to schedule a court hearing for the emergency orders.
- B. EMERGENCY ORDER:** Fill in the caption. This includes the name of the person filing the document, address, city, state, zip code, telephone number, ATLAS number (if applicable), attorney bar number if you are represented by an attorney, and whether you are representing yourself or are represented by an attorney. It also includes the Name of the Petitioner, the Name of the Respondent, and the Case Number. Leave the rest of the Emergency Order blank for the judge to fill out. This is the document the judge will sign if he/she agrees that an order must be issued right away.

STEP 4: Make copies of all the emergency paperwork. Make **3 copies** of all the forms. Assemble the copies so that you have **4 COMPLETE PACKETS** -- the **originals and 3 sets of copies**. Each packet should contain the **"Emergency Petition,"** the **"Emergency Order,"** and the **"Order to Appear."**

STEP 5: File the papers at the court.

GO TO THE CLERK OF THE COURT'S OFFICE: Take the **original and 3 copies** of the documents to the Clerk of the Court, on the first floor of the court, for processing. The filing fee is, as of January 1, 1998, \$61.00. If you cannot afford this, ask for paperwork to defer or postpone the filing fee. Ask the Clerk to stamp the copies of the Petition and the Order.

WHAT THE CLERK WILL DO: The Clerk will file the original **"Emergency Petition,"** and **"Petition to Modify Custody and/or Visitation."** The Clerk will give you back clerk-stamped copies of the documents to show the documents were filed. The clerk will court-stamp all the copies you have to show what was filed.

STEP 6: TAKE EMERGENCY PAPERS AND OTHER PAPERS TO FAMILY COURT

ADMINISTRATION: Family Court Administration is located in the downtown court at 201 W. Jefferson, 6th Floor, Central Court Building, Phoenix, Arizona; at the Southeast Court Facility, 222 East Javelina, 2nd Floor, Mesa, Arizona; or at the Northeast Court Facility at 18380 North 40th Street in Phoenix. Court Administration will tell you which judge/commissioner is assigned to your case. The downtown court will have you take the documents to the judge/commissioner. The Southeast Court will take the documents to the judge/commissioner for you. Give the judge (downtown) or Court Administration (Southeast or Northeast) the following documents:

Clerk-stamped **copy** of **"Emergency Petition"**
Original and 3 copies of **"Emergency Order"**
Original and 3 copies of **"Emergency Order to Appear"**
Clerk-stamped **copy** of **"Petition to Modify Custody and/or Visitation"**
Copy of **"Child Support Worksheet"** (short version) that you completed
Copy of **"Affidavit Regarding Minor Children"**
Original and copy of **"Order Modifying Custody"**

STEP 7: **What the judge will do:** The judge will read the ***“Emergency Petition.”*** The judge might want to:

Sign the ***“Emergency Order”*** without seeing you, **OR**

Ask you and the other party, if he or she is there, to come into the office and explain the situation, **OR**

Have a court hearing.

The judge will then decide one of the following:

To sign the ***“Emergency Order,”*** and schedule a court hearing to decide whether to continue the ***“Emergency Order”*** and/or to modify custody and/or visitation; **OR**

To deny the ***“Emergency Order,”*** but schedule an emergency hearing so that both parties can come in and tell his or her side of the story; **OR**

To deny the ***“Emergency Order”***(s), and schedule a hearing on the ***“Petition to Modify Custody and/or Visitation”***; **OR**

To order whatever else the judge thinks is proper. This includes orders against you if the judge thinks you deliberately tried to do something wrong.

STEP 8: **If the Judge signs the Emergency Order.** If the judge signs the ***“Emergency Order,”*** ask the judge's assistant to "conform" or write in all the parts of the judge's Order on the copies of the Orders you brought, and stamp the judge's name on the copies. Take the Order from the judge's office back to the Clerk of the Court on the first floor. Get a certified copy of the ***“Emergency Order”*** so you can show it to the police if necessary.

STEP 9: **Serve the court papers.** If the judge signs the ***“Emergency Order”*** and/or schedules a hearing, you must usually personally serve the other party with all court papers. Follow the instructions that go with the packet on the ***“Petition to Modify Custody and/or Visitation”*** about Service.

An exception to the requirement of personal service is if you give actual notice to the other person, which usually means they came to the court hearing and received a copy of the Order when the judge signed it, just like you did. **If you are thinking about not serving the papers, see a lawyer for legal advice,** because you **do not** want to do something improper and then lose your ***“Emergency Order”*** and/or court date.

STEP 10: **The court hearing.** Be sure to write down the date, time and place of the court hearing, and come to the hearing. **Be on time.** Dress neatly. Be prepared to present your evidence about why the ***“Emergency Order”*** should be extended. **Do not bring children to court.**